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CLERK, U.S. DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA
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DEPUTY

UNITED STATES DISTRICT COURT
SOUTHERN DISTRICT OF CALIFORNIA

07 CV 2292 BIM (NLS)

Hany M. ABDOU,

Plaintiff,

vs.

Michael Chertoff, DHS Secretary;
Emilio Gonzalez, USCIS Director;
Paul Pierre, USCIS San Diego District
Director; Christina Poulos, USCIS CSC
Director; Peter D. Keisler, Acting Attorney
General; Robert S. Mueller, III, FBI Director

Defendants

Civil No.

Alien No. 047-356-968

COMPLAINT FOR REVIEW OF
NATURALIZATION APPLICATION
UNDER 8 U.S.C. §1447(b);
ALTERNATIVELY, COMPLAINT FOR
RELIEF UNDER 5 U.S.C. §702;
ALTERNATIVELY, COMPLAINT FOR
MANDAMUS RELIEF UNDER 28
U.S.C. §1361

Plaintiff, by and through his attorney, alleges as follows:

Introduction

1. In this Complaint, the Plaintiff requests that this Court assume jurisdiction over his application for naturalization, hold a hearing on his application for naturalization, and make a determination on his application for naturalization, pursuant to 8 U.S.C. § 1447(b). The Plaintiff's application for naturalization has been pending for more than 120 days beyond the date on which the United States Citizenship and Immigration Services ("USCIS") conducted his examination. Over twenty months have passed since the Plaintiff's examination on his application for naturalization on March 17, 2006, and USCIS has failed to make a final

determination on his application. Thus, under 8 U.S.C. §1447(b), the Plaintiff requests that this Court make a determination on his application or remand the matter to USCIS with instructions to determine the matter within 60 days, or within a reasonable and finite time. Alternatively, the Plaintiff requests that the Court review the agencies' failure to adjudicate his application for naturalization under the Administrative Procedures Act ("APA") at 5 U.S.C. § 702, and, under its authority at 5 U.S.C. § 706(1) compel the Federal Bureau of Investigation ("FBI") to complete its security checks within 30 days and compel USCIS to determine the matter within 30 days after the FBI's completion of the security checks. Alternatively, the Plaintiff requests that the Court issue a writ of Mandamus, under 28 U.S.C. § 1361, to compel the FBI to complete its security checks within 30 days and to compel USCIS to determine the matter within 30 days after the FBI's completion of the security checks.

I. Jurisdiction

2. This Court has jurisdiction over this action under 8 U.S.C. § 1447 (b). Under 8 U.S.C. §1447(b), if USCIS fails to make determination on an application for naturalization before the end of the 120-day period after the date on which the examination is conducted, the applicant may apply to the United States District Court for the district in which the applicant resides for a hearing on the matter. 8 U.S.C. § 1447(b). The initial examination triggers the 120 day statutory period within which USCIS must make a determination on the application for naturalization. United States v. Hovsepian, 359 F.3d 1144, 1151 (9th Cir. 2004)(en banc). Upon an application under this section, the District Court has exclusive jurisdiction over the application for naturalization and may either determine the matter or remand the matter with appropriate instructions to USCIS to determine the matter. 8 U.S.C. § 1447(b); Hovsepian, 359 F.3d 1144, 1159 - 1164.

3. In this case, the Plaintiff underwent the examination regarding his application for naturalization over twenty months ago on March 17, 2006, and to date, he has not received a final determination on his application for naturalization, despite numerous inquiries into the status of his application. Thus, this Court has exclusive jurisdiction over the matter.

1 4. Jurisdiction is also conferred upon this Court for all of the Plaintiff's claims under 28
2 U.S.C. § 1331, as an action involving a federal question. The Plaintiff's claims for relief all arise
3 under federal statutory law. Finally, with regard to the Plaintiff's request for Mandamus relief,
4 28 U.S.C. § 1361 provides, "[t]he district courts shall have original jurisdiction of any action in
5 the nature of Mandamus to compel an officer or employee of the United States, or any agency
6 thereof, to perform a duty owed to the plaintiff."

7 8 **II. Venue**

9 5. Under 8 U.S.C. § 1447(b), the District Court in the district in which the Plaintiff resides
10 is the appropriate court in which to apply for a hearing on the matter. Moreover, under 28
11 U.S.C. § 1391(e), in a civil action in which a Defendant is an officer or employee of the United
12 States or any agency thereof acting in his official capacity or under color of legal authority, the
13 plaintiff may bring such an action, except as otherwise provided by law, in any judicial district
14 in which a Defendant in the action resides, a substantial part of the events or omissions giving
15 rise to the claim occurred, or where the plaintiff resides, if no real property is involved in the
16 action.

17 6. In this action, Mr. Abdou, the Plaintiff, resides in the Southern District of California. The
18 Defendants operate in the Southern District of California, and a substantial part of the events
19 giving rise to the claim occurred in the Southern District of California. Thus, venue is proper
20 with the Court.

21 22 **III. Plaintiff**

23 7. The Plaintiff, Mr. Hany M. Abdou, is a lawful permanent resident of the United States
24 who resides within the jurisdiction of this Court. On or about November 8, 2005, Mr. Abdou
25 applied for naturalization pursuant to 8 U.S.C. § 1421, et seq., and he was fingerprinted on
26 December 6, 2005. He underwent an examination under 8 U.S.C. § 1446 on March 17, 2006.
27 Mr. Abdou believes that he has satisfied all the requirements for naturalization, except that the
28 Defendants and their agents have not yet completed the required "security checks." Since March
17, 2006 Mr. Abdou has performed at least four inquiries into the status of his application for

1 naturalization, and the Defendants' agents consistently have responded with the same boilerplate
2 response that security checks are still pending, such that the Defendants and their agents cannot
3 make a final determination on his application. Mr. Abdou's application for naturalization has
4 been pending for over twenty months since his examination on March 17, 2006. Moreover, the
5 Defendants typically commence the requisite security checks for an applicant shortly after
6 receipt of an application for naturalization, and in this case, the Defendants received Mr.
7 Abdou's application for naturalization on or about November 8, 2005. Mr. Abdou appeared for a
8 fingerprinting and biometrics appointment on December 6, 2005. Accordingly, the Defendants
9 have had over 24 months since the date of his application and over 22 months since the date of
10 his fingerprinting and biometrics appointment to complete the required security checks. Such a
11 delay is clearly unreasonable.

12 13 **IV. Defendants**

14 8. Defendant Michael Chertoff is the Secretary of the Department of Homeland Security
15 ("DHS"). Emilio Gonzalez is the Director of the USCIS, an agency within DHS. Paul Pierre is
16 the District Director of the USCIS San Diego District. Christina Poulos is the Director of the
17 USCIS California Service Center. Peter D. Keisler is the Acting Attorney General of the United
18 States. Robert Mueller, III, is the Director of the FBI, an agency within the Department of
19 Justice. The Plaintiff is suing all the Defendants in their official capacities. Defendants are in
20 charge of processing and adjudicating applications for naturalization pursuant to 8 U.S.C. §
21 1421, et seq., and/or performing the requisite "full criminal background check" for applicants for
22 naturalization under Pub.L. No. 105-119, Title I, Nov. 26, 1997, 111 Stat. 2448.

23 24 **V. Statutory Framework**

25 **Complaint for Review of Naturalization Application**

26 9. Pursuant to Section 336(b) of the Immigration and Nationality Act, 8 U.S.C. § 1447(b),
27 "[i]f there is a failure to make a determination under section 335 before the end of the
28 120-day period after the date on which the examination is conducted under such section,
the applicant may apply to the United States district court for the district in which the
applicant resides for a hearing on the matter. Such court has jurisdiction over the matter

1 and may either determine the matter or remand the matter, with appropriate instructions,
2 to the Service to determine the matter.”

3 10. An applicant for naturalization, in general, must demonstrate English language ability
4 and knowledge of United States history and government. 8 U.S.C. § 1423(a).

5 11. Persons who are opposed to organized government, who are opposed to the rule of law,
6 or who favor totalitarian forms of government are ineligible for naturalization, as are deserters of
7 the United States Armed Forces or aliens relieved of duty in the United States Armed Forces due
8 to alienage. 8 U.S.C. §§ 1424 – 1426.

9 12. Persons who satisfy the following requirements may be naturalized: (1) after admission
10 as a lawful permanent resident, continuous residence within the United States for at least five
11 years immediately preceding the date of filing the application, through the time of filing his
12 application, up to the time of admission to citizenship; (2) physical presence in the United States
13 during at least half of the five years immediately preceding the date of filing the application; and
14 (3) good moral character and attachment to the principles of the Constitution of the United States
15 during the five year period immediately preceding the application and throughout the period that
16 the application is processing. 8 U.S.C. § 1427.

17 13. Federal law prohibits USCIS from using federal funds to complete adjudication of an
18 application for naturalization unless USCIS has received confirmation from the FBI that it has
19 completed “a full criminal background check.” Pub.L. No. 105-119, Title I, Nov. 26, 1997, 111
20 Stat. 2448. A “name check” is not specifically mandated.

21 14. The regulation at 8 C.F.R. § 335.2(b) defines “a definitive response that a full criminal
22 background check on an application has been completed” from the FBI as “(1) Confirmation
23 from the [FBI] that an applicant does not have an administrative or criminal record; (2)
24 Confirmation from the [FBI] that an applicant has an administrative or a criminal record; or (3)
25 Confirmation from the [FBI] that two properly prepared fingerprint cards (Form FD-258) have
26 been determined unclassifiable for the purpose of conducting a criminal background check and
27 have been rejected.” The regulations do not mandate that the FBI perform a “name check.”
28

Complaint for Review of Failure to Complete the Name Check under the APA

15. The APA provides that “with due regard for the convenience and necessity of the parties or their representatives and within a reasonable time, each agency shall proceed to conclude a matter presented to it.” 5 U.S.C. §555(b). Therefore, under the APA, government agencies have a duty to act on matters before them within a reasonable time.

16. Under the APA, “[a] person suffering legal wrong because of agency action, or adversely affected or aggrieved by agency action within the meaning of a relevant statute, is entitled to judicial review thereof.” 5 U.S.C. § 702. An agency action may include “an agency rule, order, license, sanction, relief, or the equivalent or denial thereof, or failure to act.” 5 U.S.C. § 551(13).

17. The APA does not apply to the extent that another federal statute precludes judicial review of an agency’s failure to act. 5 U.S.C. § 701(a)(1). An agency’s action is reviewable under the APA except where it is committed to agency discretion by law, but the APA embodies a basic presumption of judicial review. 5 U.S.C. § 701(a)(2); Abbott Laboratories v. Gardner, 387 U.S. 136, 140 (1967). A plaintiff must exhaust his administrative remedies before seeking judicial review of agency action under the APA. See Darby v. Cisneros, 509 U.S. 137 (1993).

18. Under the APA, federal courts “shall ... compel agency action unlawfully withheld or unreasonable delayed....” 5 U.S.C. § 706(1) (emphasis added).

Complaint for Mandamus Relief

19. If a government agency has failed to execute a duty owed to a plaintiff, then that plaintiff may bring a Mandamus action pursuant to 28 U.S.C. § 1361. Title 28 U.S.C. § 1361 provides the district courts with “... original jurisdiction of any action in the nature of Mandamus to compel an officer or employee of the United States or any agency thereof to perform a duty owed to the plaintiff.”

20. For a court to grant this remedy, (1) the plaintiff must have a clear right to the relief sought, (2) the defendants must have a clear, non-discretionary duty to act, and (3) no other adequate remedy is available. Patel v. Reno, 134 F.3d 929, 931 (9th Cir. 1998).

21. The Defendants have a non-discretionary duty to recommend or deny an application for naturalization and to perform the required security checks. The Southern District of California, as well as other courts within the Ninth Circuit, have held that the government has a non-discretionary duty to make a decision on immigration applications within a reasonable time. See e.g., He v. Chertoff, No. CV 06-02608 (S.D. Cal. 2007); Lazli v. U.S. Citizenship and Immigration Services, WL 496351 (D. OR. 2007); Quan v. Chertoff, WL 61884 (N.D. Cal. 2007); Razaq v. Poulos, no. 06-2461, U.S. Dist. LEXIS 770 (N.D. Cal. 2007).

VI. Factual Allegations

22. Mr. Abdou is a 27-year-old native and citizen of Egypt. Mr. Abdou was admitted for lawful permanent residence in the United States on January 20, 2001. (See Exh. A, Copy of Mr. Abdou's Permanent Resident Card).

23. On or about November 8, 2005, the Plaintiff filed a Form N-400, Application for Naturalization, with the USCIS California Service Center in Laguna Niguel, California (See Exh. B, Copy of Receipt Notice).

24. On or about December 6, 2005, Mr. Abdou appeared as requested for a fingerprinting and biometrics appointment that the Defendants and their agents scheduled for him. (See Exh. C, Copy of the date-stamped Fingerprint Notification).

25. The Defendants' agents scheduled an interview with Mr. Abdou regarding his application for naturalization for March 17, 2006, and the Defendants' agent (Officer David Glaze) interviewed Mr. Abdou at that time. At the interview, Mr. Abdou passed the tests of English and United States history and government, as required under 8 U.S.C. § 1423(a)(1). (See Exh. D, Form N-652, Naturalization Interview Results).

26. At the completion of the interview on March 17, 2006, the Defendants confirmed that Mr. Abdou has satisfied all of the requirements for naturalization but that the Defendants and their agents had not yet completed the security checks into Mr. Abdou's background and could not yet make a determination on his application for naturalization.

1 27. The Defendants' failure to complete the security checks was not due to Mr. Abdou's lack
2 of cooperation, as he complied with all requirements. The Defendants and their agents have not
3 informed Mr. Abdou of any other deficiency in his application for naturalization.

4 28. Since Mr. Abdou's interview on March 17, 2006, over twenty months ago, Mr. Abdou
5 has made at least four inquiries into the status of his application for naturalization. The
6 Defendants' agents consistently have responded with the same response that the Plaintiff's
7 security checks were still pending completion and that, accordingly, the Defendants cannot make
8 a determination on his application. (See Exh. E, Copies of Inquiry Responses from the
9 Defendants indicating that Mr. Abdou's security checks are still pending completion).

10 29. Mr. Abdou has satisfied all statutory requirement for naturalization.

11 A. He has continuously resided in the United States for the five years immediately
12 preceding his application for naturalization, through the present date.

13 B. He was physically present in the United States for over half of the five years
14 immediately preceding his application for naturalization.

15 C. Nothing in the record precludes a finding of Mr. Abdou's good moral character.

16 D. Mr. Abdou passed the tests of English language ability and knowledge of United
17 States government and history.

18 E. The provisions at 8 U.S.C. §§ 1424 – 1426 do not apply to Mr. Abdou.

19 Thus, Mr. Abdou is eligible for naturalization.

20 31. To date, the Defendants have not made a final determination on Mr. Abdou's application
21 for naturalization, and more than 120 days have passed since his examination on March 17,
22 2006.

23 32. The USCIS San Diego District Office's current average processing time for applications
24 for naturalization is approximately seven months from the date of filing (See Exh. F, District
25 Office Processing Dates for San Diego CA, posted on November 14, 2007"). The Defendants
26 have taken three times its average processing time to adjudicate the Plaintiff's application for
27 naturalization, which amounts to an unreasonable delay.

28 33. Mr. Abdou has a right to the relief sought. Mr. Abdou has fully complied with the
requirements for an application for naturalization, including payment of the filing fee and

1 attendance at his biometrics appointment. In addition, he appeared at the required interview and
2 passed the English and United States government and history exams. He therefore has a right to
3 a decision on his application for naturalization.

4 34. The Defendants have a non-discretionally duty to complete the adjudication of the
5 Plaintiff's naturalization application.

6 35. Mr. Abdou has no other administrative remedies available to him, as he does not have a
7 decision from which he can appeal, and he has performed at least four inquiries regarding the
8 status of his application without receiving a decision.

9
10 **VII. Claims for Relief**

11 36. The Defendants' failure to make a determination on Mr. Abdou's application for
12 naturalization within 120 days of the date of his examination allows Mr. Abdou to seek relief
13 from this Court under 8 U.S.C. § 1447(b).

14 37. The Defendants' unreasonable and extraordinary delay in the completion of the requisite
15 background checks and determination on Mr. Abdou's application for naturalization allows Mr.
16 Abdou to seek an order from the Court under 5 U.S.C. § 706(1) compelling the FBI to complete
17 its security checks within 30 days and compelling USCIS to adjudicate the application within 30
18 days after receiving confirmation of the FBI's completed security checks.

19 38. The Defendants' unreasonable and extraordinary delay of over twenty months in the
20 completion of the requisite background checks and determination on Mr. Abdou's application for
21 naturalization allows Mr. Abdou to seek a writ of Mandamus from this Court under 28 U.S.C. §
22 1361 compelling the FBI to complete its security checks within 30 days and compelling USCIS
23 to adjudicated the application within 30 days after receiving confirmation of the FBI's completed
24 security checks.

25 39. WHEREFORE, Mr. Abdou prays that this Court,

- 26 a. Assume jurisdiction over this cause of action;
- 27 b. Conduct a hearing on Mr. Abdou's application for naturalization, determine that
- 28 Mr. Abdou is eligible for naturalization, and administer the oath of allegiance,
thereby swearing him in as a United States citizen;

- 1 c. Alternatively, under 8 U.S.C. § 1447(b), remand Mr. Abdou's application for
2 naturalization to the Defendants with instructions to make a final determination
3 on his application within 60 days;
- 4 d. Alternatively, issue an order under the APA compelling the FBI to complete its
5 security checks within 30 days and compelling USCIS to make a final
6 determination on his application within 30 days or receipt of clearance from the
7 FBI;
- 8 e. Alternatively, issue a writ of mandamus compelling the FBI to complete its
9 security checks within 30 days and compelling USCIS to make a final
10 determination on his application within 30 days of receipt of clearance from the
11 FBI;
- 12 f. Grant Mr. Abdou such other and further relief as this Court deems proper under
13 the circumstances; and
- 14 g. Grant Mr. Abdou reasonable attorney's fees and costs.

15 Respectfully,

16 Attorney for Plaintiff,

17 DATED: 12-6-07

18 SIGNED: Leah W. Hurwitz

19 Leah W. Hurwitz, Esq.

20 For: LEAH W. HURWITZ,

21 A Professional Law Corporation
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<u>Exhibit A</u>	Copy of Mr. Abdou's Permanent Resident Card.....	1
<u>Exhibit B</u>	Copy of form I-797C, Receipt Notice for Mr. Abdou's Application for Naturalization	2
<u>Exhibit C</u>	Copy of Form I-797C, Fingerprint Notification with biometrics processing stamp verifying that Mr. Abdou was processed for biometrics and tenprints on December 6, 2005.....	3
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PERMANENT RESIDENT CARD

NAME ABDOU, HANY M



INS A# 047-356-968

Birthdate 08/08/80 Category DV1 Sex M

Country of Birth Egypt

CARD EXPIRES 10/03/11

Resident Since 01/20/01


 


C1USA0473569683SRC0200351297<<
8008068M1110034EGY<<<<<<<<<<<<0
ABDOU<<HANY<MICHEL<FARES<<<<<<

U.S. DEPARTMENT OF JUSTICE Immigration and Naturalization Service


PERMANENT RESIDENT CARD

The person identified by this card is authorized to work and reside in the U.S.



 575948

UNITED STATES OF AMERICA

Receipt with Exception			NOTICE DATE November 19, 2005
CASE TYPE N400 Application For Naturalization			INS A# A-047 356 968
APPLICATION NUMBER WSC*001407526	RECEIVED DATE November 08, 2005	PRIORITY DATE November 08, 2005	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS HANY ABDU 138 JERICHO CIRCLE GLEN ESCONDIDO CA 92027		PAYMENT INFORMATION Single Application Fee: \$400.00 Total Amount Received: \$400.00 Total Balance Due: \$0.00	
<p>The above application has been received by our office and is in process, but has been noted with one or more of the following exception(s):</p> <p>Missing Evidence(s) - your application was missing evidence(s) that you will need to provide at the time of your naturalization interview. You will be notified under separate notice of the necessary evidence(s) that you will be required to bring to your interview. Do not submit any evidence(s) by mail.</p> <p>Our records indicate your personal information is as follows: Date of Birth: August 06, 1980 Address Where You Live: 138 JERICHO CIRCLE GLEN ESCONDIDO CA 92027</p> <p>Please verify your personal information listed above and immediately notify our office at the address or phone number listed below if there are any changes.</p> <p>You will be notified of the date and place of your interview when you have been scheduled by the local INS office. You should expect to be notified within 365 days of this notice.</p> <p>IMPORTANT NOTICE: All naturalization applicants who were between the ages of 14-75 at the time of filing must have their fingerprints taken at an INS Application Support Center (ASC) so they can be submitted to the Federal Bureau of Investigation for a criminal history check. If we received your application without a fingerprint card (FD-258), or your fingerprint card was received on or after December 3, 1997, you will need to go to an ASC to be fingerprinted. Do not have your fingerprints taken anywhere else. You will receive a notice that will provide you with information about when and where to go to have your fingerprints taken, and what you will need to bring with you. Please inform the office listed below immediately of any address changes.</p> <p>If you have any questions or comments regarding this notice or the status of your case, please contact our office at the below address or customer service number. You will be notified separately about any other cases you may have filed.</p> <p>If you have other questions about possible immigration benefits and services, filing information, or INS forms, please call the INS National Customer Service Center (NCSC) at 1-800-375-5283. If you are hearing impaired, please call the NCSC TDD at 1-800-767-1833.</p> <p>If you have access to the Internet, you can also visit INS at www.ins.usdoj.gov. Here you can find valuable information about forms and filing instructions, and about general immigration services and benefits. At present, this site does not provide case status information.</p> <p>INS Office Address: US IMMIGRATION AND NATURALIZATION SERVICE CALIFORNIA SERVICE CENTER P.O. BOX 10400 LAGUNA NIGUEL CA 92607</p> <p>INS Customer Service Number: (800) 375-5283</p> <p>APPLICANT COPY</p> <p>WSC001512256</p> 			

UNITED STATES OF AMERICA

Fingerprint Notification		NOTICE DATE November 23, 2005	
CASE TYPE N400 Application For Naturalization		INS A# A 047 356 968	
APPLICATION NUMBER WSC*001407526	RECEIVED DATE November 08, 2005	PRIORITY DATE November 08, 2005	PAGE 1 of 1
APPLICANT NAME AND MAILING ADDRESS HANY ABDOU 138 JERICHO CIRCLE ESCONDIDO CA 92027		BIOMETRICS PROCESSING STAMP ASC SITE CODE: <u>YSC</u> BIOMETRICS QA REVIEW BY: ON TENPRINTS QA REVIEW BY: <u>WLSU</u> ON DEC 6 2005	
			
To process your application, INS must take your fingerprints and have them cleared by the FBI. PLEASE APPEAR AT THE BELOW APPLICATION SUPPORT CENTER AT THE DATE AND TIME SPECIFIED. If you are unable to do so, complete the bottom of this notice and return the entire original notice to the address below. RESCHEDULING YOUR APPOINTMENT WILL DELAY YOUR APPLICATION. IF YOU FAIL TO APPEAR AS SCHEDULED BELOW OR FAIL TO REQUEST RESCHEDULING, YOUR APPLICATION WILL BE CONSIDERED ABANDONED.			
APPLICATION SUPPORT CENTER INS SAN MARCOS 727 W. SAN MARCOS BLVD. SUITE 101, 102 SAN MARCOS CA 92069		DATE AND TIME OF APPOINTMENT 12/06/2005 10:00 AM	
WHEN YOU GO TO THE APPLICATION SUPPORT CENTER TO HAVE YOUR FINGERPRINTS TAKEN, YOU MUST BRING: 1. THIS APPOINTMENT NOTICE and 2. PHOTO IDENTIFICATION. Naturalization applicants must bring their Alien Registration Card. All other applicants must bring a passport, driver's license, national ID, military ID, or State-issued photo ID. If you appear without proper identification, you will not be fingerprinted.			
PLEASE DISREGARD THIS NOTICE IF YOUR APPLICATION HAS ALREADY BEEN GRANTED.			
REQUEST FOR RESCHEDULING Please reschedule my appointment for the next available: <input type="checkbox"/> Wednesday afternoon <input type="checkbox"/> Saturday afternoon INS cannot guarantee the day preferred, but will do so to the extent possible. Upon receipt of your request, you will be provided a new appointment notice. Please mail your request to: INS SAN MARCOS 727 W. SAN MARCOS BLVD. SUITE 101, 102 SAN MARCOS CA 92069 If you have any questions regarding this notice, please call 1-800-375-5283.			
APPLICATION NUMBER WSC*001407526		APPLICANT COPY 	
WARNING! Due to limited seating availability in our lobby areas, only persons who are necessary to assist with transportation or completing the fingerprint worksheet should accompany you.			

Department of Homeland Security
U.S. Citizenship and Immigration Services

N-652, Naturalization Interview Results**A47 356 968**

On March 17, 2006, you were interviewed by USCIS officer DAVID GLAZE

- ☒ You passed the tests of English and U.S. history and government.
- ☐ You passed the tests of U.S. history and government and the English language requirement was waived.
- ☐ USCIS has accepted your request for a Disability Exception. You are exempted from the requirement to demonstrate English language ability and/or a knowledge of U.S. history and government.
- ☐ You will be given another opportunity to be tested on your ability to _____ speak/_____ read/_____ write _____ English.
- ☐ You will be given another opportunity to be tested on your knowledge of U.S. history and government.
- ☐ Please follow the instructions on Form N-14.
- ☐ USCIS will send you a written decision about your application.
- ☐ You did not pass the second and final test of your _____ English ability/ _____ knowledge of U.S. history and government. You will not be rescheduled for another interview for this Form N-400. USCIS will send you a written decision about your application.

A) _____ **Congratulations! Your application has been recommended for approval.** At this time it appears that you have established your eligibility for naturalization. If final approval is granted, you will be notified when and where to report for the Oath Ceremony.

B) ☒ **A decision cannot yet be made about your application.**

It is very important that you:

- ☒ Notify USCIS if you change your address.
- ☒ Come to any scheduled interview.
- ☒ Submit all requested documents.
- ☒ Send any questions about this application in writing to the officer named above. Include your full name, Alien Registration Number (A#), and a copy of this paper.
- ☒ Go to any Oath Ceremony that you are scheduled to attend.
- ☒ Notify USCIS as soon as possible in writing if you cannot come to any scheduled interview or Oath Ceremony. Include a copy of this paper and a copy of the scheduling notice.

NOTE: Please be advised that under section 336 of the Immigration and Nationality Act, you have the right to request a hearing before an immigration officer if your application is denied, or before the U.S. district court if USCIS had not made a determination on your application within 120 days of the date of your examination.

U.S. Department of Homeland Security

USCIS

880 Front Street, Room 1234

San Diego, CA 92101-8634

**U.S. Citizenship
and Immigration
Services**

Wednesday, July 26, 2006

HANY ABDOU
138 JERICHO CIR GLEN
ESCONDIDO CA 92027

Dear HANY ABDOU:

On 07/26/2006 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	The applicant
Attorney Name:	Information not available
Case type:	N400
Filing date:	11/08/2005
Receipt #:	WSC*001407526
Beneficiary (If you filed for someone else):	ABDOU, HANY
Your USCIS Account Number (A-number):	A047356968
Type of service requested:	Case Status - Outside Processing Time

The status of this service request is:

The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

U.S. CIS - 07-26-2006 04:28 PM EDT - WSC*001407526

U.S. Department of Homeland Security
USCIS
880 Front Street, Room 1234
San Diego, CA 92101-8834



**U.S. Citizenship
and Immigration
Services**

Tuesday, September 11, 2007

HANY ABDOU
1245 MORNING VIEW DRIVE APT 147
ESCONDIDO CA 92029

Dear Hany Abdou:

On 09/11/2007 you, or the designated representative shown below, contacted us about your case. Some of the key information given to us at that time was the following:

Caller indicated they are:	Applicant or Petitioner
Attorney Name:	Information not available
Case type:	N400
Filing date:	11/23/2005
Receipt #:	WSC*001407526
Beneficiary (if you filed for someone else):	Information not available
Your USCIS Account Number (A-number):	A047356968
Type of service requested:	Outside Normal Processing Times

The status of this service request is:

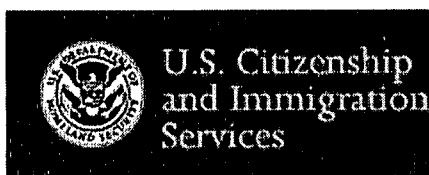
The processing of your case has been delayed. A check of our records establishes that your case is not yet ready for decision, as the required investigation into your background remains open.

Until the background investigation is completed, we cannot move forward on your case. These background checks are required to be completed on all applicants who apply for the immigration benefit you are seeking. We will make every effort to make a decision on this case as soon as the background checks are complete. If you do not receive a decision or other notice of action from us within 6 months of this letter, please contact us by calling our customer service number provided below.

If you have any further questions, please call the National Customer Service Center at 1-800-375-5283.

Please remember: By law, every person who is not a U.S. citizen and who is over the age of 14 must also notify the Department of Homeland Security within 10 days from when they move (persons in "A" or "G" nonimmigrant status are exempt from this requirement). If you have moved, please complete a Form AR-11 and mail it to the address shown on that form. If you do not have this form, you can download it from our website or you can call the National Customer Service Center at 1-800-375-5283 and we can order one for you. If you move, please call us with your new address information as soon as your move is complete. If you have already called us and given us this information, you do not need to call again.

U.S. Citizenship and Immigration Services

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U.S. Citizenship and Immigration Services San Diego CA Processing Dates Posted November 14, 2007

The processing times shown below are a tool for our customers to gauge our current processing times. When applications and petitions are completed within our target timeframes, that goal will be shown in the data display.

The processing times shown below are for applications that have just been completed. If you have just filed your application, these timeframes may not reflect how long your application will take to be completed. We encourage you to check this page periodically before inquiring about your case. The processing times are updated monthly.

USCIS has received a significant increase in the number of applications filed. In July and August, nearly 2.5 million applications and petitions of all types were received. This compares to 1.2 million applications and petitions received in the same time period last year. This fiscal year, we received 1.4 million applications for naturalization; nearly double the volume we received the year before. The agency is working to improve processes and focus increased resources, including hiring approximately 1,500 new employees, to address this workload.

As a result, average processing times for certain application types may be longer. In particular, naturalization applications filed after June 1, 2007 may take approximately 16-18 months to process.

We offer a variety of services after you file. For example, for most kinds of cases you can [check the status of your case online](#).

For more information about when and how to contact us, whether your case is outside our processing time or if there are other issues, please see our customer guide –

[Case Services - How do I... know what kind of services are available to me after I file my application or petition?](#)

District Office Processing Dates for **San Diego CA** Posted November 14, 2007

Form	Form Name	Processing Timeframe:
I-131	Application for Travel Documents	3 Months
I-485	Application to Register Permanent Residence or Adjust Status	6 Months
I-600	Petition to Classify Orphan as an Immediate Relative	August 06, 2007
I-600A	Application for Advance Processing of Orphan Petition	August 06, 2007
I-765	Application for Employment Authorization	11 Weeks
N-400	Application for Naturalization	7 Months
N-600	Application for Certification of Citizenship	August 08, 2007

**UNITED STATES
DISTRICT COURT**
SOUTHERN DISTRICT OF CALIFORNIA
SAN DIEGO DIVISION

145164 - SR

**December 06, 2007
15:19:26**

Civ Fil Non-Pris

USAO #: 07CV2292 CIV. FIL.

Judge.: BARRY T MOSKOWITZ

Amount.: \$350.00 CK

Check#: BC#3421

Total-> \$350.00

**FROM: ABDOU V. CHERTOFF, ET AL
CIVIL FILING**

JS 44 (Rev. 11/04)

CIVIL COVER SHEET

The JS 44 civil cover sheet and the information contained herein neither replace nor supplement the filing and service of pleadings or other papers as required by law, except as provided by local rules of court. This form, approved by the Judicial Conference of the United States in September 1974, is required for the use of the Clerk of Court for the purpose of initiating the civil docket sheet. (SEE INSTRUCTIONS ON THE REVERSE OF THE FORM.)

I. (a) PLAINTIFFS

Hany M. ABDON

07 DEC -6 PM 3:22

(b) County of Residence SAN DIEGO
(EXCEPT IN U.S. PLAINTIFF CASES ONLY)BY: *[Signature]*

DEPUTY

(c) Attorney's (Firm Name, Address, and Telephone Number)

Leah W. Hurwitz, Esq. Leah W. Hurwitz, APLC 2727 Camino Del Rio South, Ste. 110, San Diego, CA 92108 619-239-7855

DEFENDANTS

Michael Chertoff; Emilio Gonzalez; Paul Pierre, Christina Poulos; Peter Keisler; Robert S. Mueller, III

County of Residence of First Listed Defendant
(IN U.S. PLAINTIFF CASES ONLY)

NOTE: IN LAND CONDEMNATION CASES, USE THE LOCATION OF THE LAND INVOLVED.

Attorneys (If Known)

US Attorney's Office
880 Front Street, Rm. 6293, San Diego, CA 92101

II. BASIS OF JURISDICTION (Place an "X" in One Box Only)

- ☐ 1 U.S. Government Plaintiff
- ☐ 2 U.S. Government Defendant
- ☐ 3 Federal Question (U.S. Government Not a Party)
- ☐ 4 Diversity (Indicate Citizenship of Parties in Item III)

III. CITIZENSHIP OF PRINCIPAL PARTIES (Place an "X" in One Box for Plaintiff and One Box for Defendant)

- | | | | | | |
|---|----------------------------|----------------------------|---|----------------------------|----------------------------|
| | PTF | DEF | | PTF | DEF |
| Citizen of This State | <input type="checkbox"/> 1 | <input type="checkbox"/> 1 | Incorporated or Principal Place of Business In This State | <input type="checkbox"/> 4 | <input type="checkbox"/> 4 |
| Citizen of Another State | <input type="checkbox"/> 2 | <input type="checkbox"/> 2 | Incorporated and Principal Place of Business In Another State | <input type="checkbox"/> 5 | <input type="checkbox"/> 5 |
| Citizen or Subject of a Foreign Country | <input type="checkbox"/> 3 | <input type="checkbox"/> 3 | Foreign Nation | <input type="checkbox"/> 6 | <input type="checkbox"/> 6 |

IV. NATURE OF SUIT (Place an "X" in One Box Only)

CONTRACT	TORTS	FORFEITURE/PENALTY	BANKRUPTCY	OTHER STATUTES
<input type="checkbox"/> 110 Insurance <input type="checkbox"/> 120 Marine <input type="checkbox"/> 130 Miller Act <input type="checkbox"/> 140 Negotiable Instrument <input type="checkbox"/> 150 Recovery of Overpayment & Enforcement of Judgment <input type="checkbox"/> 151 Medicare Act <input type="checkbox"/> 152 Recovery of Defaulted Student Loans (Excl. Veterans) <input type="checkbox"/> 153 Recovery of Overpayment of Veteran's Benefits <input type="checkbox"/> 160 Stockholders' Suits <input type="checkbox"/> 190 Other Contract <input type="checkbox"/> 195 Contract Product Liability <input type="checkbox"/> 196 Franchise	PERSONAL INJURY <input type="checkbox"/> 310 Airplane <input type="checkbox"/> 315 Airplane Product Liability <input type="checkbox"/> 320 Assault, Libel & Slander <input type="checkbox"/> 330 Federal Employers' Liability <input type="checkbox"/> 340 Marine <input type="checkbox"/> 345 Marine Product Liability <input type="checkbox"/> 350 Motor Vehicle <input type="checkbox"/> 355 Motor Vehicle Product Liability <input type="checkbox"/> 360 Other Personal Injury	PERSONAL INJURY <input type="checkbox"/> 362 Personal Injury - Med. Malpractice <input type="checkbox"/> 365 Personal Injury - Product Liability <input type="checkbox"/> 368 Asbestos Personal Injury Product Liability PERSONAL PROPERTY <input type="checkbox"/> 370 Other Fraud <input type="checkbox"/> 371 Truth in Lending <input type="checkbox"/> 380 Other Personal Property Damage <input type="checkbox"/> 385 Property Damage Product Liability	<input type="checkbox"/> 610 Agriculture <input type="checkbox"/> 620 Other Food & Drug <input type="checkbox"/> 625 Drug Related Seizure of Property 21 USC 881 <input type="checkbox"/> 630 Liquor Laws <input type="checkbox"/> 640 R.R. & Truck <input type="checkbox"/> 650 Airline Regs. <input type="checkbox"/> 660 Occupational Safety/Health <input type="checkbox"/> 690 Other	<input type="checkbox"/> 422 Appeal 28 USC 158 <input type="checkbox"/> 423 Withdrawal 28 USC 157 PROPERTY RIGHTS <input type="checkbox"/> 820 Copyrights <input type="checkbox"/> 830 Patent <input type="checkbox"/> 840 Trademark
REAL PROPERTY <input type="checkbox"/> 210 Land Condemnation <input type="checkbox"/> 220 Foreclosure <input type="checkbox"/> 230 Rent Lease & Ejectment <input type="checkbox"/> 240 Torts to Land <input type="checkbox"/> 245 Tort Product Liability <input type="checkbox"/> 290 All Other Real Property	CIVIL RIGHTS <input type="checkbox"/> 441 Voting <input type="checkbox"/> 442 Employment <input type="checkbox"/> 443 Housing/Accommodations <input type="checkbox"/> 444 Welfare <input type="checkbox"/> 445 Amer. w/Disabilities - Employment <input type="checkbox"/> 446 Amer. w/Disabilities - Other <input type="checkbox"/> 440 Other Civil Rights	PRISONER PETITIONS <input type="checkbox"/> 510 Motions to Vacate Sentence Habeas Corpus: <input type="checkbox"/> 530 General <input type="checkbox"/> 535 Death Penalty <input type="checkbox"/> 540 Mandamus & Other <input type="checkbox"/> 550 Civil Rights <input type="checkbox"/> 555 Prison Condition	LABOR <input type="checkbox"/> 710 Fair Labor Standards Act <input type="checkbox"/> 720 Labor/Mgmt. Relations <input type="checkbox"/> 730 Labor/Mgmt. Reporting & Disclosure Act <input type="checkbox"/> 740 Railway Labor Act <input type="checkbox"/> 790 Other Labor Litigation <input type="checkbox"/> 791 Empl. Ret. Inc. Security Act	SOCIAL SECURITY <input type="checkbox"/> 861 HIA (1395ff) <input type="checkbox"/> 862 Black Lung (923) <input type="checkbox"/> 863 DIWC/DIWW (405(g)) <input type="checkbox"/> 864 SSID Title XVI <input type="checkbox"/> 865 RSI (405(g)) FEDERAL TAX SUITS <input type="checkbox"/> 870 Taxes (U.S. Plaintiff or Defendant) <input type="checkbox"/> 871 IRS—Third Party 26 USC 7609
				<input type="checkbox"/> 400 State Reapportionment <input type="checkbox"/> 410 Antitrust <input type="checkbox"/> 430 Banks and Banking <input type="checkbox"/> 450 Commerce <input type="checkbox"/> 460 Deportation <input type="checkbox"/> 470 Racketeer Influenced and Corrupt Organizations <input type="checkbox"/> 480 Consumer Credit <input type="checkbox"/> 490 Cable/Sat TV <input type="checkbox"/> 810 Selective Service <input type="checkbox"/> 850 Securities/Commodities/Exchange <input type="checkbox"/> 875 Customer Challenge 12 USC 3410 <input checked="" type="checkbox"/> 890 Other Statutory Actions <input type="checkbox"/> 891 Agricultural Acts <input type="checkbox"/> 892 Economic Stabilization Act <input type="checkbox"/> 893 Environmental Matters <input type="checkbox"/> 894 Energy Allocation Act <input type="checkbox"/> 895 Freedom of Information Act <input type="checkbox"/> 900 Appeal of Fee Determination Under Equal Access to Justice <input type="checkbox"/> 950 Constitutionality of State Statutes

V. ORIGIN

(Place an "X" in One Box Only)

- ☒ 1 Original Proceeding
- ☐ 2 Removed from State Court
- ☐ 3 Remanded from Appellate Court
- ☐ 4 Reinstated or Reopened
- ☐ 5 Transferred from another district (specify)
- ☐ 6 Multidistrict Litigation
- ☐ 7 Appeal to District Judge from Magistrate Judgment

VI. CAUSE OF ACTION

Cite the U.S. Civil Statute under which you are filing (Do not cite jurisdictional statutes unless diversity):
8 USC §1447(b)

Brief description of cause:

Seeks review of naturalization application. Alternatively, seeks Mandamus relief or relief under the APA

VII. REQUESTED IN COMPLAINT:

☐ CHECK IF THIS IS A CLASS ACTION UNDER F.R.C.P. 23

DEMANDS

CHECK YES only if demanded in complaint:

JURY DEMAND: ☐ Yes ☒ No

VIII. RELATED CASE(S) IF ANY

(See instructions):

JUDGE

DOCKET NUMBER

DATE

SIGNATURE OF ATTORNEY OF RECORD

12-6-07

Leah W. Hurwitz

FOR OFFICE USE ONLY

RECEIPT #

145164
12/6/07

AMOUNT

\$350.
[Signature]

APPLYING IFP

JUDGE

MAG. JUDGE